

considered by the Examiner, it requires only a cursory review. The claims, if amended as proposed, do not present new issues requiring further consideration or search. Support for new Claims 26-41 relevant to the specific deposited source of the isolate SNg is found in the description on page 8, lines 4-9 and elsewhere in the specification showing how to use the immunogenically active component of the invention in a formulated vaccine. Support for the inclusion of the art-recognized term "subculture" is found in the teachings of the application showing the method for cell culture propagation of the protozoan parasite from page 8, line 17 to page 9, line 22 and in Example 1 on page 13 describing the multiple cultures.

Under the guidelines of M.P.E.P. § 714.13, any refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance or whether the issues on appeal are simplified.

Applicants therefore hope that the Examiner will enter the present amendment, albeit after a final rejection, and consider the amended claims in a positive light. It had been believed that the prior arguments and amendments would suffice to overcome the rejections of record (*i.e.*, the rejection of Claims 1, 2, 4-8 and 10-14 (now Claims 27-37) under 35 U.S.C. § 112, first paragraph; the rejection of Claims 1, 2 and 4-8 (now Claims 27-33) under 35 U.S.C. § 102(b) as allegedly being anticipated by Granstrom *et al.*; the rejection of Claims 1, 2 and 4-7 (now Claims 27-32) under 35 U.S.C. § 102(b) as allegedly being anticipated by Liang *et al.*; the rejection of Claims 1, 2, 5 and 8 (now Claims 27 and 33) under 35 U.S.C. § 102(e) as allegedly being anticipated by Mansfield *et al.*; and the rejection of Claims 1, 2, 4-8 and 10-14 (now Claims 27-37) under 35 U.S.C. § 102(b) as allegedly being anticipated by Dubey *et al.*). Since the Examiner was not persuaded to allow the claims, this amendment is now deemed necessary to direct the claimed invention to the deposited strain or a subculture thereof. Entry and consideration of the claims, as amended, along with the withdrawal of the afore-noted rejections of record are respectfully requested at this time.

Applicants further respectfully request rejoinder and allowance of the previously withdrawn method Claims 18, 19, 21 and 22. The method claims are retained and amended to include the same limitations as the product claims in the event the Examiner allows the vaccine product Claims 30-37 and permits rejoinder of the corresponding method claims.

If any outstanding issue remains in this case, the Examiner is invited to contact the undersigned attorney to discuss mutually agreeable solutions.

Accordingly, it is believed that this application is now in condition for an allowance. Favorable treatment is respectfully urged.

Respectfully submitted,

WYETH

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